

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

BRENT JOSEPH DAIGLE,)	
)	
Petitioner,)	
)	
v.)	No. 2:22-cv-00538-JPH-MJD
)	
WARDEN,)	
)	
Respondent.)	

Order Denying Motion to Proceed on Appeal *In Forma Pauperis*

The petitioner seeks leave to proceed on appeal without prepayment of the appellate fees of \$505.00. An appeal may not be taken in forma pauperis if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3); *see also Thomas v. Zatecky*, 712 F.3d 1004, 1006 (7th Cir. 2013) (explaining § 1915(a)(3) applies to habeas proceedings). "Good faith" within the meaning of § 1915 must be judged by an objective, not a subjective, standard. *Coppedge v. United States*, 369 U.S. 438 (1962).

There is no objectively reasonable argument the Petitioner could present to argue that the disposition of this action was erroneous. As explained in the Court's Order dismissing his petition, Petitioner has not shown that 28 U.S.C. § 2255 was inadequate or ineffective such that he is eligible to pursue relief under 28 U.S.C. § 2241. *Hill v. Werlinger*, 695 F.3d 644, 645 (7th Cir. 2012). His arguments that the underlying court lacked jurisdiction and the underlying judgment is "void" are not based on any new statutory interpretation case; were not unavailable when he pursued § 2255 relief; and do not demonstrate a "manifest error of justice" given that these same arguments were already rejected. *United States v. Daigle*, No. 3:16-cr-00013-PDW-1 (D. N.D. 2016) (Dkts. 174, 192). In pursuing an appeal, therefore, the petitioner "is acting in bad faith . . . [because] to sue in

bad faith means merely to sue on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose to have any merit." *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). Accordingly, his appeal is not taken in good faith, and for this reason his request for leave to proceed on appeal in forma pauperis, dkt. [12], is **denied**.¹

SO ORDERED.

Date: 1/6/2023



James Patrick Hanlon
United States District Judge
Southern District of Indiana

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¹ Petitioner also has not submitted with his motion an affidavit that shows in detail his inability to pay for the appeal. *See* Fed. R. App. P. 24(a)(1)(A). Even if he had, however, his motion would still fail on the merits.